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compare said conditional purchase offer with seller inventory and pricing information from a plurality of sellers of said goods or services to determine if said conditional purchase offer is acceptable without identification of the seller to the customer;

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if said conditional purchase offer is acceptable, bind the customer to purchase the goods or services, provide an acceptance to said customer in response to the conditional purchase offer without indication of amounts paid to a seller for said goods or services, charge said financial account for payment of said goods or services, and provide payment to said seller for said goods or services of an amount less than and independent of said offer price.

REMARKS

Applicants respectfully request reconsideration of the instant amendment in view of the aforementioned amendments and the following remarks. Claims 122-160 are pending in the application. Claims 122, 135, 136, 142, 148, 149, and 155 are independent claims. No new claims and no new matter have been added.

Objection to the Title

The Examiner has objected to the title as not being descriptive of the claimed subject matter. Applicants have amended the title in response to the Examiner's concerns.

Double Patenting Rejection

The Examiner has rejected a number of claims under the judicially-created doctrine of double-patenting in view of commonly-assigned US Patent Number 5,794,207 and a 1995 Business Wire Article (the "Business Wire" article). Applicants respectfully disagree with the

Examiner's position in this regard. Nevertheless, Applicants submit the enclosed terminal disclaimer to advance the prosecution of the instant application. The submission of the terminal disclaimer should not be construed as agreement with the position of the Examiner set-forth in the office action.

Rejections under 35 USC §§102 and 103

The Examiner has rejected each of the pending claims under §§102 and 103 in view of the Business Wire article, US Patent Number 5,794,219 to Brown (the "Brown patent") and an article entitled "Auctions and Bidding". Applicants respectfully submit the cited references fail to disclose or suggest each of the limitations of the pending claims.

The Business Wire article describes a system ("ONSALE") in which a consumer may browse specific seller inventory, and participate in an auction of a seller's goods. According to the article,

ONSALE's merchandise will be sold using one of three interactive formats: standard auctions, dutch auctions and markdowns. In a standard auction, an item is placed onsale for a fixed time period and sold to the highest bidder. Dutch auctions occur when a number of identical articles are offered for sale at the same time period. The highest bidders purchase the available inventory at the lowest successful bidder's price. ONSALE's markdown merchandise decreases in price in time intervals. Customers can buy markdown items at the current posted price, or can wait until the next time interval, which may be hours or days, when the offering price goes down.

The Brown patent is directed to a method of conducting an on-line auction with bid pooling. Individual bidders pool their bids during a bidding session. Each of several bidding groups are registered with a central computer. Each bidding group has a total bid for an item being auctioned. The bidding group with the largest total bid wins the item being auctioned.

As such, the Business Wire article and the Brown patent are directed to

arrangements in which a specific good (or a plurality of the same good) from a specific seller is auctioned to the highest bidder. In stark contrast thereto, each of the independent claims of the instant application is directed to a system whereby a conditional purchase offer for goods or services is compared with seller inventory and pricing information from a plurality of sellers of the goods or services. Such an arrangement is simply not disclosed or suggested by any of the cited references. As such, the claimed invention is clearly patentably distinct from the cited references for at least this reason, among others.

In addition to this reason, the cited references further fail to disclose any such comparison with seller inventory and pricing information from a plurality of sellers, wherein seller identity information is concealed from the customer (independent claims 122, 135, 136, 149) or without identification of the seller to the customer (claims 142, 148 and 155). For this additional reason, Applicants respectfully submit that the cited references fail to disclose or suggest each of the features of the independent claims.

Further in view of the fact that the cited references fail to disclose or suggest the aforementioned comparison with seller inventory and pricing information from a plurality of sellers, Applicants further note that the cited references fail to disclose or suggest any arrangement in which the customer is bound to purchase the good or service if the conditional purchase offer is acceptable, as a result of the comparison with seller inventory and pricing information of a plurality of sellers.

Applicants note that the aforementioned differences between the claimed invention and the cited references should be readily apparent – in view of the fact that the cited references are simply not directed to a system designed to facilitate buyer-driven conditional purchase offers. Rather, the cited references are merely directed to standard auction techniques for auctioning a

particular good or group of goods from one seller. Applicants' claimed invention is simply not directed to such a standard auction system. Rather, Applicants' claimed invention is directed to a system whereby a conditional purchase offer for goods or services and a payment identifier are received from a customer, and then compared to seller inventory and pricing information of a plurality of sellers of the goods or services to determine if the offer is acceptable. Such a buyer-driven system is simply never contemplated in the cited references.

In view of the fact that each of the independent claims of the instant application are distinguishable from the cited references for the aforementioned reasons, Applicants note that the dependent claims of the instant application are also distinguishable for at least these reasons.

Applicants further note however that the instant office action fails to address the additional limitation set-forth in independent claim 155, in which an acceptance is provided to a customer without an indication of amounts paid to a seller for said goods or services, and payment is provided to a seller for an amount less than and independent of said offer price. Applicants respectfully submit that independent claim 155 and all claims dependent thereon are also allowable for this additional reason.

In view of the aforementioned remarks, Applicants respectfully submit that all of the claims now pending in the application (claims 122-160) are in condition for allowance, which action is earnestly solicited.

If any issues are apparent, or if the Examiner has any suggestions to expedite prosecution, he is invited to contact the undersigned at the telephone number below.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may

be required for this amendment, or credit any overpayment to Deposit Account 13-4500, Order No. 3553-4010US4.

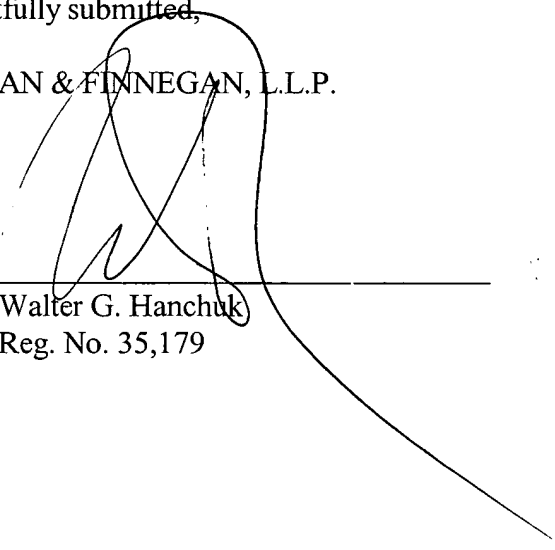
In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 3553-4010US4. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: March 19, 2001

By:



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APPENDIX

122. (Amended) A system, comprising:

a web server providing a web page accessible by customers;

a storage device storing a program;

a processor in communication with said storage device, said processor operative with said program to:

receive a selection of a subject of goods or services from a customer utilizing the web page;

receive a conditional purchase offer from a customer utilizing said web page for purchasing goods or services, said conditional purchase offer specifying at least one condition of the conditional purchase offer and an offer price;

receive a payment identifier specifying a financial account for use in providing payment for said goods or services if said conditional purchase offer is accepted;

compare said conditional purchase offer with seller inventory and pricing information from a plurality of sellers of said goods or services to determine if said conditional purchase offer is acceptable, wherein seller identity information is concealed from said customer;

if said conditional purchase offer is acceptable, bind said customer to purchase the goods or services, [;] provide an acceptance to said customer in response to the conditional purchase offer, [;] charge said financial account for payment of said goods or services, [;] and provide payment to said seller for said goods or services.

135. (Amended) A method for using a computer to process the sale of goods or services, comprising:

receiving a selection of a subject of goods or services from a customer utilizing a web page;

receiving a conditional purchase offer from a customer utilizing said web page for purchasing goods or services, said conditional purchase offer specifying at least one condition of the conditional purchase offer and an offer price;

receiving a payment identifier specifying a financial account for use in providing payment for said goods or services if said conditional purchase offer is accepted;

comparing said conditional purchase offer with seller inventory and pricing information from a plurality of sellers of said goods or services to determine if said conditional purchase offer is acceptable, wherein seller identity information is concealed from said customer;

if said conditional purchase offer is acceptable, binding said customer to purchase the goods or services, providing an acceptance to said customer in response to the conditional purchase offer₁[;] charging said financial account for payment of said goods or services₁[;] and providing payment to said seller for said goods or services.

136. (Amended) A system, comprising:

a web server providing a web page accessible by customers;

a storage device storing a program;

a processor in communication with said storage device, said processor operative with said program to:

receive a selection of a subject of goods or services from a customer utilizing the web page;

receive a conditional purchase offer from a customer utilizing said web page for purchasing goods or services, said conditional purchase offer specifying at least one condition of the conditional purchase offer and an offer price;

receive a payment identifier specifying a financial account for use in providing payment for said goods or services if said conditional purchase offer is accepted;

compare said conditional purchase offer with seller inventory and pricing information from a plurality of sellers of said goods or services to determine if said conditional purchase offer is acceptable, wherein seller identity information is concealed from said customer;

if said conditional purchase offer is acceptable, bind said customer to purchase the goods or services, [;] provide an acceptance to said customer in response to the conditional purchase offer, [;] charge said financial account for payment of said goods or services, [;] and provide payment to said seller for said goods or services, wherein said financial account is charged by an entity other than the seller.

142. (Amended) A system, comprising:

a web server providing a web page accessible by customers;

a storage device storing a program;

a processor in communication with said storage device, said processor operative with said program to:

receive a selection of a subject of goods or services from a customer utilizing the web page;

receive a conditional purchase offer from a customer utilizing said web page for purchasing goods or services, said conditional purchase offer specifying at least one condition of the conditional purchase offer and an offer price;

receive a payment identifier specifying a financial account for use in providing payment for said goods or services if said conditional purchase offer is accepted;

compare said conditional purchase offer with seller inventory and pricing information from a plurality of sellers of said goods or services to determine if said conditional purchase offer is acceptable without identification of the seller to the customer;

if said conditional purchase offer is acceptable, bind the customer to purchase the goods or services, provide an acceptance to said customer in response to the conditional purchase offer, ; charge said financial account for payment of said goods or services, ; and provide payment to said seller for said goods or services.

148. (Amended) A system, comprising:

a web server providing a web page accessible by customers utilizing a web browser;

a storage device storing a program;

a processor in communication with said storage device, said processor operative with said program to:

receive a selection of a subject of goods or services from a customer utilizing the web page;

receive a conditional purchase offer including an offer price created by the customer by filling out at least one electronic form from said web page for purchasing goods or services;

receive a payment identifier specifying a financial account for use in providing payment for said goods or services if said conditional purchase offer is accepted;

compare said conditional purchase offer with seller inventory and pricing information from a plurality of sellers of said goods or services to determine if said conditional purchase offer is acceptable without identification of the seller to the customer;

if said conditional purchase offer is acceptable, bind the customer to purchase the goods or services, provide an acceptance to said customer in response to the conditional purchase offer, [;] charge said financial account for payment of said goods or services, [;] and provide payment to said seller for said goods or services.

149. (Amended) A method for using a computer to process the sale of goods or services, comprising:

receiving a selection of a subject of goods or services from a customer utilizing a web page;

receiving a conditional purchase offer including an offer price created by the customer by filling out at least one electronic form from said web page for purchasing goods or services;

receiving a payment identifier specifying a financial account for use in providing payment for said goods or services if said conditional purchase offer is accepted;

comparing said conditional purchase offer with seller inventory and pricing information from a plurality of sellers of said goods or services to determine if said conditional purchase offer is acceptable, wherein seller identity information is concealed from said customer;

if said conditional purchase offer is acceptable, binding said customer to purchase the goods or services, providing an acceptance to said customer in response to the conditional purchase offer, [;] charging said financial account for payment of said goods or services, [;] and providing payment to said seller for said goods or services.

150. (Amended) The method [system] of claim 149, wherein said conditional purchase offer includes an expiration date.

151. (Amended) The method [system] of claim 149, wherein said seller inventory and pricing information includes seller-defined rules.

152. (Amended) The method [system] of claim 149, wherein the customer accesses said web page using a web browser.

153. (Amended) The method [system] of claim 149, wherein said financial account is a debit account.

154. (Amended) The method [system] of claim 149, wherein said financial account is a credit account.

155. (Amended) A system, comprising:
a web server providing a web page accessible by customers using a web browser;
a storage device storing a program;
a processor in communication with said storage device, said processor operative with said program to:

receive a selection of a subject of goods or services from a customer utilizing the web page;

receive a conditional purchase offer from a customer utilizing said web page for purchasing goods or services, said conditional purchase offer specifying at least one condition of the conditional purchase offer, and an offer price, said conditional purchase offer being binding upon acceptance;

receive a credit card number specifying a credit card account for use in providing guaranteed payment for said goods or services if said conditional purchase offer is accepted;

compare said conditional purchase offer with seller inventory and pricing information from a plurality of sellers of said goods or services to determine if said conditional purchase offer is acceptable without identification of the seller to the customer;

if said conditional purchase offer is acceptable, bind the customer to purchase the goods or services, provide an acceptance to said customer in response to the conditional purchase offer without indication of amounts paid to a seller for said goods or services, ; charge said financial account for payment of said goods or services, ; and provide payment to said seller for said goods or services of an amount less than and independent of said offer price.